IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

Crl.MC.No. 2476 of 2007()

CRIME NO. 214 OF 2003 OF VADAKKEKARA POLICE STATION
LP.14/2007 of I ADDL.SESSIONS COURT, ERNAKULAM

.....

PETITIONER: 1ST ACCUSED

DEEPU, S/O. VALSAN, AGED 25 YEARS,
KAITHAKKADU HOUSE, PUTHIYAKAVU,
ALAMTHURUTHU, VADAKKEKARA, NORTH PARAVUR.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.
(CRIME NO.214 OF 2003 OF VADAKKEKARA POLICE
STATION).

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

Crl.M.C.No. 2476 of 2007

- -

Dated this the 3rd day of August, 2007

O R D E R

The petitioner is the first accused in Crime No. 214 of 2003, where he faces allegations, inter alia, under Section 395 I.P.C. along with six other accused persons. Investigation is complete. Final report has been filed. Committal proceedings has been registered. Committal order was passed. The petitioner could not appear before the learned Sessions Judge after committal. The trial against the co-accused is scheduled to take place on 6.8.2007 as S.C. 838 of 2005. The case against the petitioner has been split up and transferred to the list of long pending cases. The same is pending as L.P. 14 of 2007.

2. The petitioner now wants to surrender before the learned Magistrate. He submits that his failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. He prays that his case may also be directed to be tried along with other accused in S.C.838 of 2005. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits,

in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. I find merit in the prayer of the learned counsel for the petitioner that if trial against him is also ordered to be conducted along with S.C.838 of 2005, that shall save considerable amounts of time and resources of the Court also. As the trial is listed to 6.8.2007, I do not want to issue any specific direction. But I expect the learned Sessions Judge to make every endeavour to ensure that the trial against the petitioner also proceeds along with the other accused in the same crime, if possible.

6. Hand over copy of the order.

(R. BASANT)
Judge

tm